G. R. S. 58]

Previous references.

C 202-07-5
-151-14-4.

File No. 371—14

1914. 15

Serial Nos. 1—3

(Courts)

Later references.

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1— 3

Part B for May 16

SUBJECT.

Amendment of the rules laid down for the guidance of Benches of Magistrates

3) To the Compiler, Mysore Gazette
J 4501 of 16/5/16.
Notifies the amendment.

W D 1351—GPB—20,000—13-12-15

16/5/16

G. R. S. 11] 1914-15

GENERAL AND REVENUE SECRETARIAT.

(Courts)

NOTES.

J Mis 173

File No. 371 of 1914

FILE HEADING.

Amendment of the Rules laid down for the guidance of Benches of Magistrates.

From

No.	Dated	Received
Diary No.	Enclos. Spare Copies.	Serial No.

BRIEF ABSTRACT OF LETTER.

NOTES AND ORDERS.

OC 5/7-14 1) Attention is respectfully invited to paragraph 7 of the rules in Courts Collection 157 of 1914-15 suggesting revision of rule 6. The Bombay Gat Gazette of 20th may 1915 containing the rules recently issued by that Gat is

Q

NOTES—First Sheet.

GPB—20,000—8-5-11

General and Revenue Secretariat. | C5 File No. 371 of 1914-15

Serial No.

3

Also put up. Rule 6 therein corresponds to our rule as it now stands.

Sub⁰ for orders.

HS. 15.6.15

2) Our present rule is the same as in Bombay, Madras & Central Provinces. No changes have been ~~paid~~ made in the rule in these Provinces. Either the present rule may be allowed to stand as it is or it may be modified as directed in para 7 of minute in cons. file 157 of 14.

3) A draft notification is submitted for approval & other orders.

HS 8/7

Hon'ble Member

4) The amendment may be made.

Dewan 17/7/15

5) May be submitted to H.E. for approval.

23/7

322 20.7.15

ds 17/8

NOTE—Contn. sheet.

GPB—25,000—22-3-15

f. Pris 673-Ur

(3)

[. R. S. 12]

General and Revenue Secretariat.

Ch File No. 371 of 1914.-15

Serial No.

6) Submitted with a draft Final Note for favour of approval.

Eg 18/8

Dir (Member)

7) Final note approved and signed by First member as put up.
18.8.15.
MSS

Diwan)

Draft sent 19/8

874
19.8.15

8) If the First Member has no objection, the Chief Secretary may be consulted.
21.8.15 RO

First Member)

Draft sent 23/8
Eg 23/8

9) Please Consult.

31/8/15

Draft 3/9

Ch 2/9

Please put up draft.

Eg 2/9/15

10) Draft rec'd.
Reg.
4/9/1915
Ch 4/9

11) Issue
Eg 4/9

Sus Ch 1/9

NOTE—Contn. sheet.

GPB—25,000—22-3-15

2012

(4)

G. R. S. 12]

General and Revenue Secretariat. | G File No. 371 of 1914-15

Serial No. 1

To The Registrar, Chief Court
No J 1026 dt 9-9-1915

Calls for the opinion of the Judges of the Chief Court on the proposal to amend rule 6 of the rules laid down for the guidance of Benches of Magistrates.

From the same office
No 3343/264 dt 18/19-1-1916

Forwards the opinion called for.

(1) Sub with reference to paragraph 9.

Reg. 9191.
14-2-1916

EB
14/2

First Member

(2) The Chief Court practically agrees. No change necessary in draft. ✓

(3) Revise submn note.

28/2/16

Dr 28/2

Dai

(4) Draft Note & Submissions submitted for favour of approval

EB
4/3

Dewan

Dewan

Ct. 28/2 28/2/16

4-40 pm

4757
11.3.16.

NOTE—Contn. sheet

GPB—70,000—17-12-15

Final Note by the First Member of Council.

Subject:—

Amendment of Rule 6 of the Rules for the guidance of Benches of Magistrates.

12) When the Benches of Honorary Magistrates were started, as an experimental measure, in the Cities of Bangalore and Mysore in 1909, a set of rules was laid down for the guidance of ----- Benches. These rules were scrutinized by me when the question of making them applicable to the newly constituted courts at --- some of the district head quarter stations came up for consideration. I then proposed that rule 6 may be altered so as to bring about the acquittal of the accused where the majority of the members of the Bench are not agreed, independently of the casting vote, on convicting him.

13) A draft notification modifying the rule accordingly -- is in the file and may be approved.

H. Mangrendayya

First Member of Council.

Dated 18th August 1915.

Submitted to His Highness.

× 9

14) I submit herewith a Final× Note by the First Member of Council regarding the amendment of Rule 6 of the Rules for the guidance of ---- Benches of Magistrates so as to bring about the acquittal of the accused where the majority of the members of the Bench are not agreed, ------- independently of the casting vote, on convicting him.

× D Encl to Sl 2

15) 2. The Judges of the Chief Court who were consulted on the proposed amendment practically agree× to it.

× Draft for approval.

16) 3. The draft× notification modifying the rule may kindly be approved.

for

H. Williams
6th May 1916.

2012

(7)(6)

Record of Cases submitted for the Orders of His Highness the Maharaja

Subject.

Amendment of Rule 6 of the Rules for the guidance of Benches of Magistrates.

1081

Order.

17) ~~KRW~~
11/5/16

Sunday
11.5.16

19/

668.
19.5.16.

17/
20.5

2012

G. R. S. 12]

General and Revenue Secretariat. | Ch File No. 371 of 1914.

Serial No.	
3	To The compiler Supra Gazette Dno J 4501 16th. May. 1916 Notifies the amendment of Rule 6 of the Rules for the guidance of Benches of Magistrates. To The Dist. Magts. of Dts. Dno J 4502-7 16th. May. 1916 Forwards copy of the above.

NOTE—Contn. sheet

GPB—70,000—17-12-15.

(9

G.R.S. 26]

SUBJECT.....

.....

.....

*Diary No. of letter replied to*_____

Section C5
File No. 371-16
Serial No. 1

General and Revenue Secretariat

( )

, *the* 191 .

No. g 1026.

Date of issue 9:9:1915

To, The Registrar, Chief Court

Signed by Gnv G Greenivasa Iyer

Sir,

I am directed to state that it is proposed that rule 6 of the rules laid down in the guidance of Benches of Magistrate in Govt Procs No J 3203-14/C5 202-07-4, dated 19th April 1909 may be altered as noted in the margin ~~to be true about the acquittal of the accused where the majority of the members of the Bench are~~

P.T. over.

X (In lieu proposed rule here) Attended to

or (6) Each member of the Bench shall have a voice in deciding as to the admissibility of evidence and in the finding and sentence. Differences of opinion

shall be settled by the vote of the majority of the Magistrates present, the Chairman having the casting vote: provided that where the majority of members composing a Bench present, without obtaining a casting vote, on convicting the accused, he shall be acquitted."

5)

not agree, independently of the casting vote, on convicting him.

2. I am to request that Govt may be favoured with the opinion of the Judges of the Chief Court on the proposal referred to mentioned above.

Sd/- Hearn

Sd/- appd by Asst. Secy.

for Secy to Govt

leg.
2/9/1915
2/9.

List of enclosures.

Copied by

Examined by

GPB—20,000—14-2-14

No. 3343 Cul
264

Chief Court of Mysore.

Bangalore, dated the 18th January 1916.

19 1/2

DIARY No. 2012.

1915-1916
SECTION Cs
FILE No. 371-14
SERIAL No. 2

From

N.T.Gopaliengar, Esq., B.A., LL. B.
Registrar of the Chief Court of Mysore.

To

D.M.Narasinga Rao, Esq., B.A., B.L.,
Secretary to the Government of Mysore,
General Department.

S i r ,

Adverting to your letter No: J.1026/Cts.371-14-1 dated the 9th September 1915 stating that it is proposed to alter rule 6 of the rules laid down for the guidance of Benches of Magistrates in Government Proceedings No: J.3203-14/Cts.202-07-4 dated the 19th April 1909 as mentioned in the margin of the letter and requesting that the Government may be favoured with the opinion of the Judges of this Court on the proposal, I am directed to forward the enclosed opinion of the Judges.

I have the honor to be,
S i r ,
Your most obedient servant,

N. Gopaliengar

R e g i s t r a r .

H.C.C.

(12

The Chief Judge.

Flag 3 (rule 3)

The Chairman and one Magistrate are a quorum, so if the rule is amended as proposed one Magistrate may always secure an acquittal against the Chairman. But as under the rules the Chairman is not necessarily a stipendiary Magistrate of experience I do not know that that matters. The reason of the proposal is, I presume, that a man should not be convicted on a casting vote, and I am inclined to accept it as sound.

2. In England the decision of the justices in petty sessions is by majority and when they are equally divided there is no casting vote (V.19 Hals. p.601). The case should in that case be adjourned and tried before a reconstituted court, but it would seem that if the justices do not adjourn the case they must dismiss the complaint. (Ibid).

Put up.

3. When the justices are equally divided the chances are, mathematically considered, equal as to the guilt or innocence of the accused, and he ought not to be acquitted unless in cases of so petty a nature that his punishment if guilty is in no way a matter of importance to the public. He ought to be tried again.

Amendment of Rule 6 of the Rules for the guidance of Benches of Magistrates

G. R. S. 26] 1215 & 807/1615

File No. 371-14 (15)

Serial No. 13

Diary No. of letter replied to 2012

No. J 4501

General and Revenue Secretariat

( )

, the 191

To

Date of issue 16.5.1916

Signed by Mr. G. Madhava Rao

Notification.

of H. H. the Maharaja

The Govt. are pleased to modify rule 6 of the rules laid down in Notification No. J 3215/cl5 202-07-4 dated the 19th April 1909 for the guidance of Benches of Magistrates in the State by the addition of the following proviso:—

"Provided that where a majority of members comprising a Bench are not agreed, without allowing a casting vote, on conviction the accused, he shall be acquitted."

P.T. over.

SUBJECT.

6

The rule thus amended will read as follows :-

"(6) : Each member of the Bench shall have a voice in deciding as to the admissibility of evidence as in the finding and sentence. Differences of opinion shall be settled by the vote of the majority of the Magistrals present, the Chairman having the casting vote: provided that where the majority of members composing a Bench are not agreed, without allowing a casting vote, on convicting the accused, he shall be acquitted."

By order

List of enclosures,

Jr CHS:- See 4 below

To The Compiler, Mysore Gazette for information and for supplying 50 spare copies of the notification in English of this date.

Memo No. 10-J-4502-7 dt/16.5.1916.

A copy of the above is forwarded to the District Magistrate of District for information and guidance.

B. O.

Typed by [illegible]

Copied by [illegible]

Examined by [illegible]

Jr CHS: See 4

GPB—25,000—4-3-13

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA

OF MYSORE.

GENERAL AND REVENUE SECRETARIAT.

Dated, Bangalore. May 1916.

No.

NOTIFICATION.

The Government of His Highness the Maharaja are pleased to modify rule 6 of the rules laid down in Notification No.J.3215/ Cts.202-07-4 dated the 19th April 1909 for the guidance of Benches of Magistrates in the State by the addition of the following proviso

"Provided that where a majority of members comprising a Bench are not agreed, without allowing a casting vote, on convicting the accused, he shall be acquitted".

The rule thus amended will read as follows :-

"(6) Each member of the Bench shall have a voice in -- deciding as to the admissibility of evidence and in the finding and sentence. Differences of opinion shall be settled by the -- votes of the majority of the Magistrates present, the Chairman having the casting vote, provided that where the majority of -- members composing a Bench are not agreed, without allowing a casting vote, on convicting the accused, he shall be acquitted.

By Order,

S. D. Narasimha Rao

Secretary to Government,
General Department.

To

The Compiler, Mysore Gazette for publication and for supplying 50 spare copies of the Notification in English to this Office.

R.N.S.